

Revised January 12, 2004

Important notice to users of the 2003 Form 60

The Internal Revenue Service revised the instructions to the 2003 Form 1120S to provide that S corporations should not use Form 4797 to report dispositions of property if an I.R.C. § 179 expense deduction was previously passed through to any of its shareholders for that property. Instead, information about these dispositions must be separately reported to the shareholders in the supplemental information section of Schedule K-1. This change in reporting means that gains or losses on these dispositions will not be included in the amounts reported on Schedule K of Form 1120S.

The 2003 Form 60, North Dakota Small Business Corporation Income Tax Return, was finalized for printing and for posting to the Office of State Tax Commissioner's Web site prior to the IRS's changes to the 2003 Form 1120S. The Form 60 does not account for the gains or losses on the dispositions of property separately reported on Schedule K-1.

No adjustment needs to be made to Form 60 to account for the gains or losses on the dispositions of property separately reported on Schedule K-1. The gains or losses on these dispositions still constitute North Dakota-source gains or losses that must be reported to North Dakota by the partners. The reporting of these gains or losses to North Dakota will be deemed satisfied through the required attachment of a complete copy of the Form 1120S (which includes the Schedule K-1) to Form 60.

Questions may be directed to:

- *Joseph Becker* *Phone: 701-328-3451*
E-mail: jjbecker@state.nd.us
- *Norm Gabel* *Phone: 701-328-3659*
E-mail: ngabel@state.nd.us

**60 Small business corporation income tax return 2003****Check One:** ☐ Calendar year January 1, 2003, through December 31, 2003☐ Fiscal year beginning _____, 2003, and ending _____, 20 ____

Name _____

▶ Federal employer identification no.* _____

Mailing address _____

▶ Is this a farming or ranching corporation?

Yes ☐ No ☐

City, state, zip code _____

Phone number _____

Is this a Renaissance Fund Organization?

Yes ☐ No ☐

Date of incorporation _____

☒ if Schedule RZ
attached ☐☒ if extension attached
▶ ☐☒ if final return
▶ ☐

Business code (from federal return) _____

☒ if amended return
▶ ☐**Income (loss) from trade or business**

1. Shareholders' shares of income and loss (from Federal Form 1120S, Schedule K, lines 1 through 6) _____ **1** _____
2. Shareholders' shares of deductions (from Federal Form 1120S, Schedule K, line 8 plus any deduction from line 10 which is not an itemized deduction) _____ **2** _____
3. Balance (Subtract line 2 from line 1) _____ **3** _____
4. North Dakota additions (See instructions) (Attach supporting statement) _____ **4** _____
5. Balance (Add lines 3 and 4) _____ **5** _____
6. North Dakota subtractions (See instructions) (Attach supporting statement) _____ **6** _____
7. Adjusted income or loss (Subtract line 6 from line 5) If all shareholders are North Dakota resident individuals, estates, or trusts, or the corporation conducts 100% of its business in North Dakota, skip lines 8 through 12, and enter the amount from this line on line 13 _____ **7** _____
8. Net allocable income or loss (See instructions) (Attach supporting statement) _____ **8** _____
9. North Dakota apportionable income or loss (Subtract line 8 from line 7) _____ **9** _____
10. Apportionment factor (from page 2, Schedule B, line 14) _____ **10** _____
11. Income or loss apportioned to North Dakota (Multiply line 9 by line 10) _____ **11** _____
12. Net North Dakota allocable income or loss (See instructions) (Attach supporting statement) _____ **12** _____
13. North Dakota income or loss (Add lines 11 and 12) _____ **13** _____

Tax on excess net passive income and built-in gains

14. Excess net passive income subject to federal tax _____ **(01) 14** _____
15. Built-in gains subject to federal tax on Schedule D (Form 1120S) _____ **(03) 15** _____
16. Total income (Add lines 14 and 15) _____ **16** _____
17. Federal tax deduction (See instructions) _____ **(04) 17** _____
18. North Dakota apportionable income (Subtract line 17 from line 16) _____ **18** _____
19. Apportionment factor (Enter factor from line 10 above) _____ **(05) 19** _____
20. Income apportioned to North Dakota (Line 18 multiplied by line 19) _____ **20** _____
21. North Dakota net operating loss deduction (Attach worksheet from page 2 of instructions) _____ **(08) 21** _____
22. North Dakota taxable income (Subtract line 21 from line 20) _____ **(09) 22** _____
23. Tax: Use **Form 60 Tax Rate Table** below to calculate the tax _____ **(06) 23** _____
24. Penalty and interest (See instructions) _____ **(07) 24** _____
25. **Balance Due** (Add lines 23 and 24.) *If less than \$5.00, enter -0-. Pay to: ND State Tax Commissioner* _____ **25** _____

Attach a complete copy of the 2003 Form 1120S (including Schedule K-1)**Mail to: Office of State Tax Commissioner, 600 E. Boulevard Ave., Dept. 127, Bismarck, North Dakota 58505-0599**

I declare under the penalties of North Dakota Century Code § 12.1-11-02, which provides for a Class A misdemeanor for making a false statement in a governmental matter, that this return, including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return. *Privacy Act - See bottom of page 2.

Date _____

Signature of Officer _____

Title _____

Date _____

Signature of individual or firm preparing this return _____

Address _____

Form 60 Tax Rate Table

If the amount on Line 22 is not over \$3,000 3%
 \$ 3,000 to \$ 8,000 \$ 90.00 plus 4.50% of excess over \$ 3,000
 \$ 8,000 to \$20,000 \$ 315.00 plus 6.00% of excess over \$ 8,000
 \$20,000 to \$30,000 \$1,035.00 plus 7.50% of excess over \$20,000
 \$30,000 to \$50,000 \$1,785.00 plus 9.00% of excess over \$30,000
 Over \$50,000 \$3,585.00 plus 10.50% of excess over \$50,000
 "Buy North Dakota Products"

PLEASE DO NOT WRITE IN THIS SPACE



If the name on this return differs from the name used on a prior return, provide name from prior return and explain reason for change.

Schedule A: Shareholder information

Name and address of shareholder If more lines are needed, attach additional sheet(s).	Soc. Sec. No. or FEIN*	Distributive share %	ND adjusted income (loss) (Page 1, line 13) See the instructions for how to complete this column

Total (Note: The total for this column may not equal the amount shown on page 1, line 13) _____

Schedule B: Calculation of apportionment factor (For multistate corporation only)

Except as provided in the instructions, all multistate corporations must complete this schedule.

Property factor Average value at original cost of real and tangible personal property used in the business. (Exclude value of construction in progress)	Column 1 Total	Column 2 North Dakota	Column 3 Factor (Column 2 ÷ Column 1)
1. Inventories _____	1 _____	_____	Result must be carried to six decimal places
2. Buildings and other fixed depreciable assets _____	2 _____	_____	
3. Depletable assets _____	3 _____	_____	
4. Land _____	4 _____	_____	
5. Other assets (Attach schedule) _____	5 _____	_____	
6. Rented property (Annual rental multiplied by 8) _____	6 _____	_____	
7. Total property (Add lines 1 through 6) _____	7 _____	_____	
Payroll factor			
8. Wages, salaries, commissions and other compensation of employees reported on Federal Form 1120S _____ (If the amount in Column 2 does not agree with the total compensation reported for North Dakota unemployment insurance purposes, attach a detailed explanation.)	8 _____	_____	_____._____
Sales factor			
9. Gross receipts or sales, less returns and allowances (Federal Form 1120S, page 1, line 1c) _____	9 _____		
10. Sales delivered or shipped to North Dakota destinations _____		10 _____	
11. Sales shipped from North Dakota to:			
a. The United States Government _____		11a _____	
b. Purchasers in a state or foreign country where the corporation was not subject to, or did not actually pay, a net income tax or a tax measured by net income _____		11b _____	
12. Total sales (Add lines 9 through 11) _____	12 _____		_____._____
13. Sum of factors (Add lines 7, 8, and 12, Column 3) _____			13 _____._____
14. Apportionment factor (Divide line 13 by 3; however, if line 7, 8, or 12 of Column 1 is zero, divide by the number of these same lines showing an amount greater than zero) Enter result on page 1, line 10 _____			14 _____._____

General instructions

Who must file

A corporation that does business in North Dakota and files Form 1120S for federal income tax purposes must file Form 60, Small Business Corporation Income Tax Return.

However, the federal subchapter S corporation status is not recognized if the corporation is a financial institution as defined in North Dakota Century Code ch. 57-35.3. In this case, the corporation must file Form 35, North Dakota Financial Institution Tax Return.

Every subchapter S corporation must notify its shareholders that they are required to file a North Dakota income tax return to report their share of the corporation's North Dakota adjusted income or loss.

Where to file or obtain additional forms and instructions

Completed returns, and written requests for information and forms, should be mailed to the Office of State Tax Commissioner, 600 E. Boulevard Ave., Dept. 127, Bismarck, ND 58505-0599.

Forms and instructions may also be obtained by calling 701-328-2046. For the speech or hearing impaired, call Relay North Dakota at 1-800-366-6888 and ask for 701-328-2046.

Obtain tax forms, send messages, and find other information on the Office of State Tax Commissioner's Web site at www.ndtaxdepartment.com.

Due date

A calendar year corporation must file the 2003 Form 60 on or before April 15, 2004.

A fiscal year corporation must file on or before the 15th day of the fourth month following the close of the fiscal tax year. Use the 2003 Form 60 for fiscal years that begin in 2003.

A cooperative must file on or before the 15th day of the ninth month following the close of the calendar or fiscal year.

Extension of time for filing

An extension of time to file a federal return is automatically accepted as an extension of time to file the North Dakota return, and the extension applies for the same number of months as the federal extension. A copy of Federal Form 7004 must be attached to Form 60 when it is filed. If a copy of the federal extension is not attached, the return will be processed as a delinquent return.

If a federal extension is not obtained, a North Dakota extension may be obtained by filing Form 101 or a written request with the Office of State Tax Commissioner prior to the due date of the North Dakota return.

Payment of tax

If the tax due (*including penalty and interest*) is less than \$5.00, no payment is required. If the amount is \$5.00 or more, the amount must be paid when the return is filed.

Payment may be made by check (or money order) or an electronic funds transfer. To pay by check or money order, make it payable to the North Dakota State Tax Commissioner and submit with Form 60. To pay electronically, go to our Website at ndtaxdepartment.com and click on **Corporate Income ► Electronic Filing ► EFT (electronic funds transfer)**.

Federal audit changes

A taxpayer must report any change or correction to federal taxable income or the federal income tax liability made by the Internal Revenue Service or other competent authority. The change or correction must be reported by filing an amended North Dakota return, or other information as required by the Tax Commissioner, within ninety days after the final determination of the change or correction.

Composite return

A composite filing method is allowed as an alternative method of filing for nonresident individuals who are shareholders in a subchapter S corporation operating in North Dakota. Under this method, one individual income tax return, referred to as a "composite return," may be filed by the corporation on behalf of two or more eligible shareholders. For details, obtain the *Income Tax Guideline: Composite Filing Method*.

Amended return

An amended Form 60 must be filed if:

- An amended Federal Form 1120S is filed;
- North Dakota adjusted income or taxable income is changed as a result of a federal audit;
- An error is discovered on a previously filed return.

A Form 60 for the year being amended must be obtained from the Office of State Tax Commissioner. The Office of State Tax Commissioner will notify the taxpayer of any penalty and interest owed on tax due and any interest accrued on a refund.

Farm or ranch question on Form 60

Only corporations registered as a farming or ranching corporation with the North Dakota Secretary of State may check the YES box.

Information at the source

Any corporation doing business in North Dakota that is required to file a Federal Form W-2 or 1099 must also file one with North Dakota. For more information, obtain the *Income Tax Guideline: Information Returns*.

Tax incentive programs

Income exemptions and tax credits may be available to the shareholders in a subchapter S corporation that makes an investment in one or more tax incentive programs provided under North Dakota tax law. For more information, obtain the brochure *North Dakota Tax Incentives For Business*.

Instructions for page 1, lines 1 through 13

Line 4

Enter the following on this line:

- Interest from state and local obligations other than North Dakota and its political subdivisions.
- ACRS depreciation deducted on the federal return for all assets (not just North Dakota assets) placed in service from January 1, 1981, through the end of the 1982 tax year. Do not include ACRS depreciation on assets under a safe harbor lease that is not recognized by North Dakota—see **Safe harbor lease** below. (See line 6 instruction for a corresponding subtract adjustment.)
- **Safe harbor lease.** Section 168(f)(8) of the Internal Revenue Code (covering safe harbor leases) was not adopted by North Dakota where the minimum investment by the lessor is less than 100%. If this applies, and the corporation is the buyer/lessor under the lease, enter on this line the related interest expense, amortization expense, acquisition costs, losses, and depreciation included in the corporation's federal income or loss. If the corporation is the seller/lessee, enter on this line the related sale proceeds, rent expense, amortization expense, and acquisition costs included in the corporation's federal income or loss.

Line 6

Enter the following on this line:

- If the corporation is a regulated investment company as defined under Internal Revenue Code Sections 851(a) and 851(g), dividends as defined under Internal Revenue Code Section 561 that are paid to the corporation's shareholders may be entered on this line. This deduction is subject to the provisions of Internal Revenue Code Sections 852(b)(7) and 855, and is limited to an amount that is attributable to the portion of the corporation's income that is subject to income tax under N.D.C.C. ch. 57-38.
- Interest from U.S. obligations and other securities that is exempted from state taxation under federal law, including the portion of dividends received from a regulated investment company (mutual fund) attributable to the mutual fund's investment in the same kinds of securities.
- Depreciation that would have been allowed for the current tax year on all ACRS recovery property placed in service from January 1, 1981, through the end of the 1982 tax year using methods allowed under the Internal Revenue Code as amended through December 31, 1980. Do not include depreciation on assets under a safe harbor lease that is not recognized by North Dakota—see **Safe harbor lease** below. (See **line 4 instruction for a corresponding addback adjustment.**)
- **Safe harbor lease.** Section 168(f)(8) of the Internal Revenue Code (covering safe harbor leases) was not adopted by North Dakota where the minimum investment by the lessor is less than 100%. If this applies, and the corporation is the buyer/lessor under the lease, enter on this line the related rental income included in the corporation's federal income or loss. If the corporation is the seller/lessee, enter on this line the related interest income included, and depreciation *not included*, in the corporation's federal income or loss. For this purpose, ACRS recovery property placed in service from January 1, 1981, through the end of the 1982 tax year must be depreciated using methods allowed under the Internal Revenue Code as amended through December 31, 1980.

Income exemption. If the corporation was granted an income exemption under N.D.C.C. ch. 40-57.1 or 40-63, **do not** enter the exempt portion of the corporation's income on this line. In general, the shareholders may be able to claim their respective shares of the exempt income on their North Dakota tax returns. Contact the Office of State Tax Commissioner for more information.

Line 7

In general, all subchapter S corporations that carry on business both within and without North Dakota must complete lines 8 through 12. However, if a corporation has only North Dakota resident individual, estate, and trust shareholders, or conducts all of its business in North Dakota, skip lines 8 through 12, and enter the amount from line 7 on line 13.

Line 8

Enter on this line allocable nonbusiness income, less related expenses. Expenses must be attributed to allocable nonbusiness income based on a method which fairly distributes all expenses to the corporation's business and nonbusiness income. Attach to the return a schedule showing each allocable income or loss item and its net amount, the state to which the item is allocated (*a copy of the state return is preferred, if a state other than North Dakota*), and an explanation of the reasons for allocating the item. See N.D.C.C. ch. 57-38.1 and N.D. Admin. Code ch. 81-03-09.

Line 12

Enter on this line the portion of the amount on line 8 which is allocable to North Dakota.

Instructions for page 1, lines 14 through 25

Lines 14 through 25 apply only if a subchapter S corporation is subject to federal income tax on excess net passive income or built-in gains.

Line 17

Enter the amount from Federal Form 1120S, page 1, line 22c, less any portion related to LIFO recapture or interest due under the look-back method for completed long-term contracts.

Line 21

If a corporation has always been a subchapter S corporation, the North Dakota net operating loss deduction does not apply. If a subchapter S corporation was a C corporation before January 1, 1987, it may carry forward an unused North Dakota net operating loss incurred while a C corporation and offset it against an after-tax apportioned built-in gain subject to North Dakota tax. The loss available for the current tax year equals the accumulated North Dakota net operating loss as of the end of its last tax year as a C corporation less the portion previously deducted. Use the following worksheet to calculate the amount to enter on line 21. **Attach a copy of the worksheet to Form 60.**

1. Net recognized built-in gain
(from Form 60, line 15)
2. Federal tax deduction
(from Form 60, line 17)
3. Balance
(Subtract line 2 from line 1)
4. Apportionment factor
(from Form 60, line 10)
5. After-tax apportioned built-in gain subject to North Dakota tax
(Multiply line 3 by line 4)
6. Accumulated C corporation North Dakota net operating loss less the portion previously deducted
7. Smaller of line 5 or line 6.
Enter on Form 60, line 21

Line 24

The Office of State Tax Commissioner will notify the corporation of any penalty and interest owed, and will calculate interest on a refund. However, the corporation may calculate penalty and interest due and enter it on this line.

A late payment is subject to a penalty of 5% of the tax due (with a minimum of \$5.00). A late-filed return is subject to a penalty of 5% of the tax (with a minimum of \$5.00), plus 5% for each additional month or a fraction of a month, not to exceed 25% in the aggregate.

Interest is charged at the rate of 1% per month or a fraction of a month (except for the month in which the tax is due) on a late payment. In the case of an extension of time to file, interest on tax due is charged at the rate of 12% per year from the original due date to the earlier of the date the return is filed or the extended due date.

Instructions for page 2

Schedule A

All subchapter S corporations must complete Schedule A to identify their shareholders. Enter the name, address, federal identification number, and distributive share percentage in the appropriate columns. For the **ND adjusted income (loss)** column, multiply the total North Dakota adjusted income (loss) on page 1, line 13, by the shareholder's distributive share percentage and enter the result; however, if the shareholder is a North Dakota resident individual, estate, or trust, leave blank.

Schedule B

Subchapter S corporations that carry on business both within and without North Dakota must complete Schedule B. The rules for determining the property, payroll, and sales factors are contained in N.D. Admin. Code ch. 81-03-09. However, a corporation does **not** have to complete Schedule B if it conducts all of its business in North Dakota or all of its shareholders consist only of North Dakota resident individuals, estates, and trusts.